



03-25-03

3761

EXPRESS MAIL CERTIFICATE

Date: 3/24/03 Label No: EV 294038966 US

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

PLEASE CHARGE ANY DEFICIENCY UP TO \$300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

A. Stantini
Name (Print) Signature

Customer No.:



Docket No.: 2309/0F390US0

07278

PATENT TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshihisa FUJIOKA et al.

Serial No.: 09/274,197

Group Art Unit: 3761

Filed: March 22, 1999

Examiner:

Reichle, Karin M.

For: ABSORBENT ARTICLE FOR PREVENTION OF SIDEWARD LEAK

RENEWED PETITION UNDER 37 C.F.R. § 1.181**TO RESET THE SHORTENED STATUTORY PERIOD IN WHICH TO RESPOND TO A NOTICE OF NON-COMPLIANT AMENDMENT**

March 24, 2003

BOX DAC

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

1. Petition is hereby made to establish a new shortened statutory period for responding to an Office Action.

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2. A copy of a Status Request dated July 8, 2002 is submitted herewith. (Exhibit A).
3. A copy of an Interview Summary dated September 13, 2002 is submitted herewith. (Exhibit B).
4. A copy of the February 24, 2002 page from the Incoming Docketing Book is submitted herewith (Exhibit C).
5. The reason why a new shortened statutory period for responding to an Office Action, a Notice of Non-Compliant Amendment, is necessary in this case is as follows:

An Office Action was mailed on August 30, 2001 by Examiner Karin M.

Reichle, indicating that she considered the present application.

Applicant subsequently prepared and mailed an Amendment and Response to the August 30, 2001 Office Action on November 29, 2001.

According to the PALM system, the Office Action was received, and a Notice of Non-Compliant Amendment was mailed on January 24, 2002, which set a thirty day shortened statutory date for response of February 24, 2002.

In response to Applicant's failure to respond to the outstanding Notice, the Examiner responsible for the above referenced application contacted the Office of the undersigned on September 9, 2002 to ascertain whether the application was indeed abandoned.

Applicant informed the Examiner that the Notice was not received and that a Status Request had been filed (Exhibit A). A response to the Status request is yet to be received by the Office of the undersigned.

Per the Examiner's suggestion, as summarized in the Interview Summary (Exhibit B), Applicant requested that the period for responding to the Notice of Non-Compliant Amendment be reset by filing a Petition on September 27, 2002.

A Decision on Petition dismissing the September 27, 2002 petition was mailed on January 31, 2002, setting a two month deadline to file a renewed petition.

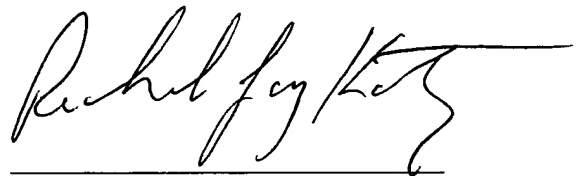
To date, Applicant has not received an official copy of the Notice of Non-Compliant Amendment. A check of the records indicates that the correspondence address that is on record with the PTO is the present address of the undersigned.

A search of the file jacket and docket records indicates that the Notice of Non-Compliant Amendment was not received. Non-receipt of this Notice is evidenced by non-entry of the Notice in the Incoming Docketing Book (IDB) (Exhibit C). Had the Notice been received at the undersigned's Office it would have been entered in the IDB on the page corresponding to February 24, 2002. Exhibit C is a true copy of the IDB for February 24, 2002, with client names and numbers redacted. U.S. Patent Application serial numbers and client matter numbers are clearly readable and as evidenced by Exhibit C, there is no entry for the present application (Serial No. 09/274,197 or its corresponding Client Matter No. 0F390US0).

Based on the foregoing, applicant respectfully maintains that the mailing system suffered a lapse by which the timely and guaranteed receipt of mail was disrupted. Based on this, Applicant has been deprived of a full and fair opportunity to respond to the Office Action dated August 30, 2002. Applicant respectfully maintains that the establishment of a new shortened statutory period for responding to an Office Action, the Notice of Non-Compliant Amendment, is in order, and a notice to this effect is respectfully solicited.

6. The petition fee under 37 C.F.R. § 1.17(h) has been paid and no fee is due at this time. However, the Patent Office is authorized to charge any deficiencies up to \$300.00 (Three Hundred), and to credit any excess, to our deposit account No. 04-100.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard J. Katz", written over a horizontal line.

Richard J. Katz
Reg. No. 47,698
Agent for Applicant(s)

Date: March 24, 2003

DARBY & DARBY P.C.
805 Third Avenue
New York, New York 10022
212-527-7700



File: 2309/OF390USO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshihisa FUJIOKA et al.

Serial No.: 09/274,197

Group Art Unit: 3734

Filed: March 22, 1999

Examiner:

For: ABSORBENT ARTICLE FOR PREVENTION OF SIDEWARD LEAK

STATUS REQUEST

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

Sir:

We have not received any communication or an official action from the Examiner within the last six months in connection with the above-identified patent application. Please let us know the status of this case.

Respectfully submitted,

Dated: July 8, 2002

Alphonso A. Collins
Reg. No. 43,559
Attorney for Applicant(s)

DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022
212-527-7700



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/274,197	03/22/1999	YOSHIHISA FUJIOKA	2309/0F390	8108

7590 09/13/2002
DARBY & DARBY
805 THIRD AVENUE
NEW YORK, NY 10022

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/13/2002

TO: AAC
ATTY: REICHLE
DATE: 09/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

09/274,197

Applicant(s)

FUJIOKA ET AL.

Examiner

Karin M. Reichle

Art Unit

3761

All participants (applicant, applicant's representative, PTO personnel):

(1) Karin M. Reichle.

(3) _____.

(2) Alphonso Collins.

(4) _____.

Date of Interview: 09 September 2002.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: n/a.

Identification of prior art discussed: n/a.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant was contacted to verify abandoned status of file. Applicant told Examiner that the last Communication from the Office had never been received and that a status letter had been filed in 7-02. Applicant was advised to file a petition under 1.81 providing evidence of nonreceipt so that the Office Action can be remailed and the period for response restarted.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

K. M. Reichle
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR § 1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

~~KR~~ / 05388 863,770 Late, red + 5 9/4/01
~~SP~~ / 05304 296,594 Late Deat. + 5 8/21/01
~~RXS~~ / 1E964US1 632,298 Appeal ✓ 2/25/02
~~WTZ~~ / 1C159US1 597,055 Appeal ✓ 11/6/01
~~SP6~~ / 09712 118,752 Six Months abundant 11/21/01
~~TBL~~ / 19877US1 373,033 Six Months 11/21/01
~~LMP~~ / 30798 585,733 Six Months transfer 8/23/01
~~KFS~~ / 3H441 232,912 Six Months 11/29/01
~~AXA~~ / 3H519 250,585 Six Months 2/22/02
~~RSW~~ / 71057OPP. 119,270 Discovery to close
~~HS~~ / 0K218 U.S. Filing Due (DEA) 2/21/02
~~JPL~~ / 2H173WO Petus 2/25/02 INV. TO OVER. ✓ 2/25/02
~~AAC~~ / 0K246 7 File Appln. 2/11/02
~~0K247~~ / 11/21/02
~~LMA~~ / 2H316 USO, / 44577 2/6
~~PL~~ / 19031US2 File Appln (DEA) ✓ 2/25/02
~~RSW~~ / 70995 OPP. 114,576 Opposer Show Cause ✓

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